

Pt. 633, Subpt. B, App. A

23 CFR Ch. I (4–1–12 Edition)

Act are included in appendix B to this part.

[40 FR 49084, Oct. 21, 1975]

APPENDIX A TO SUBPART B OF PART 633—TYPES OF CONTRACTS TO WHICH THE CIVIL RIGHTS ACT OF 1964 IS APPLICABLE

Section 324 of title 23 U.S.C., the Civil Rights Act of 1964, and the implementing regulations of the Department of Transportation (49 CFR part 21), including the provisions of paragraphs (2)(iii) and (2)(v) of appendix C thereof relative to employment practices, are applicable to the following types of contracts awarded by State highway departments, contractors, and first tier subcontractors, including those who supply materials and lease equipment:

1. Construction.
2. Planning.
3. Research.
4. Highway Safety.
5. Engineering.
6. Property Management.
7. Fee contracts and other commitments with persons for services incidental to the acquisition of right-of-way including, but not limited to:
 - a. Advertising contracts.
 - b. Agreements for economic studies.
 - c. Contracts for surveys and plats.
 - d. Contracts for abstracts of title certificates and title insurance.
 - e. Contracts for appraisal services and expert witness fees.
 - f. Contracts to negotiate for the acquisition of right-of-way.
 - g. Contracts for disposal of improvements and property management services.
 - h. Contracts for employment of fee attorneys for right-of-way procurement, or preparation and trial of condemnation cases.
 - i. Contracts for escrow and closing services.

[40 FR 49084, Oct. 21, 1975]

APPENDIX B TO SUBPART B OF PART 633—REQUIRED CONTRACT PROVISIONS, APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM AND LOCAL ACCESS ROADS CONSTRUCTION CONTRACTS

- I. Application.
- II. Employment Preference.
- III. Equal Opportunity: Employment Practices.
- IV. Equal Opportunity: Selection of Subcontractors, Procurement of Materials, and Leasing of Equipment.
- V. Nonsegregated Facilities.
- VI. Payment of Predetermined Minimum Wages.
- VII. Statements and Payrolls.
- VIII. Record of Materials, Supplies and Labor.
- IX. Subletting or Assigning the Contract.
- X. Safety: Accident Prevention.
- XI. False Statements Concerning Highway Projects.

XII. Implementation of Clean Air Act and Federal Water Pollution Control Act.

I. Application.

1. These contract provisions shall apply to all work performed on the contract by the contractor with his own organization and with the assistance of workmen under his immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

2. Except as otherwise provided in sections II, III, and IV hereof, the contractor shall insert in each of his subcontracts all of the stipulations contained in these Required Contract Provisions and also a clause requiring his subcontractors to include these Required Contract Provisions in any lower tier subcontracts which they may enter into, together with a clause requiring the inclusion of these provisions in any further subcontracts that may in turn be made. The Required Contract Provisions shall in no instance be incorporated by reference.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be grounds for termination of the contract.

4. A breach of the following clauses may also be grounds for debarment as provided in 29 CFR 5.6(b):

Section 1, paragraph 2.

Section VI, paragraphs 1, 2, 3, 5 and 8a.

Section VII, paragraphs 1, 5a, 5b and 5d.

II. Employment preference.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the United States Department of Labor wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

- a. To the extent that qualified persons regularly residing in the area are not available.
- b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph 1c shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph 4 below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of laborers, mechanics and other employees he anticipates will be required to perform the contract work, (b) the number of employees required